IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 22ND OCTOBER 2007 / 30TH ASWINA 1929

WP(C).No. 15624 of 2007(I)

PETITIONERS:
----

1. SHRI.K.K.KHALID, "THANEEM",
PANNIYANNOORE, CHOKLI, THALASSERY TALUK,
REPRESENTED BY HIS SON AND POWER OF ATTORNEY
K.NARSHID KHALID.

2. K.T.K.SULAIKHA, "THANEEM",
PANNIYANNOORE, CHOKLI, THALASSERY TALUK,
REPRESENTED BY HER SON AND POWER OF ATTORNEY
K.NARSHID KHALID.

BY ADV. SRI.S.RAMESH BABU

RESPONDENT:

THE POWER GRID CORPORATION OF INDIA
LIMITED, SOUTHERN REGION TRANSMISSION SYSTEM-II,
KOZHIKODE CONSTRUCTION AREA OFFICE,
UGRAPURAM (PO), AREACODE, MALAPPURAM DIST.,
KERALA.

BY ADV. SRI.MILLU DANDAPANI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

THOTTATHIL B.RADHAKRISHNAN, J.

W.P(C).No.15624 OF 2007 &
I.A.No.13916 OF 2007

Dated this the 22nd day of October, 2007

JUDGMENT

As of now, the Power Grid Corporation of India Ltd. is the sole respondent in this writ petition. It is a licensee in terms of the law relating to electricity. The drawl of line by the respondent is a matter governed by the Electricity or Telegraph Act and other relevant laws.

2. The petitioners contend that an alignment, through which, a line is proposed to be drawn is not only one that affects the petitioner's properties, adversely, but also one which is circuitous, and alternate, scientifically feasible and more appropriate alignments are available. The respondent contends, among other things, that the alignment is on the basis of different factors. One of the primary issues that has been raised is as to whether the feasibility of alternate route, as suggested by the petitioners, through the reserve forest is impermissible in

law. With the different postings that this case has undergone, I have also noticed that the petitioners have placed on record the report of one, whom they call as an 'expert', who is also a retired Chief Engineer of the Kerala State Electricity Board.

3. I am not proceeding to further adjudicate this matter on merits at this point of time, because, as of now, the petitioners' contentions are in the realm of objections to the line being drawn by a licensee, and therefore, it is the statutory requirement that the line cannot be drawn without such obstructions being removed in terms of the Telegraph and Electricity Act. However, having regard to the complexity of the questions raised, it is most appropriate that the Executive Magistrate, whom the respondent may apply following this judgment, hears the parties quite elaborately and takes further materials on record as may be placed and which may be required for consideration. It is also directed that the State Government shall also be represented in the proceedings and appropriate views of the State Government are also made available before

the Executive Magistrate. The K.S.E.Board shall also participate in the proceedings. The Executive Magistrate, if necessary, would also require effective participation of the appropriate officials of the Forest Department and if needed, the appropriate authorities under the Central Government.

The final decision shall be taken by the Executive Magistrate within a period of one months from the date of receipt of a copy of this judgment. It is clarified that all issues and contentions are left open. The writ petition and the I.A. are disposed of accordingly.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.